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Washington, D.C. 20006

In re Application of :
OP DEN CAMP et al. :
Application No.: 10/500,872 :
PCT No.: PCT/NL03/00049 :
Int. Filing Date: 23 January 2003 :
Priority Date: 23 January 2002 :
Attorney Docket No.: 28902.0008 :
For: FERMENTATION OF PENTOSE
SUGARS

DECISION ON REQUEST
UNDER 37 CFR 1.497(d)

This decision is in response to "Communication: Correction of Inventorship" filed 27 April 2005, which is being treated as a renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 23 January 2003, applicants filed the above-captioned international application, which claimed a priority date of 23 January 2002. The international application named Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj Harhangi; and Christiaan Van der Drift as applicant/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 July 2004.

On 07 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee; a translation of the international application; and a declaration executed by: Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj Harhangi; Christiaan Van der Drift; and Jacobus Thomas Pronk.

On 04 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration filed 07 July 2004 was defective because the declaration sets forth an inventor who had not been named in the international application. Furthermore, the Notification stated that a sequence listing in computer readable form had not been submitted as required by 37 CFR 1.821-1.825. The notification set a two-month time limit in which to respond.

On 06 December 2004, applicants filed "Petition to Correct Inventorship under 37 CFR 1.48(a). In a decision dated 03 March 2005, applicants' request to correct inventorship was dismissed without prejudice.

On 27 April 2005, applicants filed "Communication: Correction of Inventorship" which is being treated as a renewed request under 37 CFR 1.497(d).

DISCUSSION

In the instant case, the international application named Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj Harhangi; and Christiaan Van der Drift as applicant/inventors. Applicants request to add Jacobus Thomas Pronk as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17; and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b). Applicants have satisfied items (2) and (3).

Regarding item (1), applicants have provided a statement from Jacobus Thomas Pronk which states that the error in inventorship occurred without deceptive intent.

In regards to item (4) above, the written consent of the assignee is not acceptable, in that, the "Consent of Assignee Royal Nedalco B.V. under 37 CFR 3.73(b) for Correction of Inventorship" does not identify the name of the individual signing on behalf of the assignee, Royal Nedalco B.V. Further, the "Consent of Assignee Royal Nedalco B.V. under 37 CFR 3.73(b) for Correction of Inventorship" indicates that an assignment is attached, however, a review of the petition papers reveals that the assignment is not located therein. Therefore, applicants must provide newly executed consent of assignee, which identifies the person consenting to the additional inventor, and a copy of the assignment or indicate that the assignment has been recorded in the United States Patent and Trademark Office (e.g., reel and frame number).

CONCLUSION

Applicants' renewed request under 37 CFR 1.497(d) is DISMISSED without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(b). Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to:
Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box
1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the
attention of the Office of PCT Legal Administration.

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